

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN MEDICAL RESPONSE	:	Case No. 05-CA-221233
MID-ATLANTIC, INC.	:	
	:	
<i>and</i>	:	
	:	
MOSIAH O. GRAYTON, AN INDIVIDUAL	:	

RESPONDENT’S MOTION FOR LEAVE TO FILE AMENDED ANSWER

As the Respondent in the above-captioned case, American Medical Response Mid-Atlantic, Inc. (hereafter, the “Company”) hereby respectfully moves, by and through the Undersigned Counsel, for leave to file the Amended Answer attached hereto as “Exhibit A” in response to the Complaint that was issued by Acting Regional Director Nancy Wilson on February 4, 2019.

On July 17, 2020, the Board issued a Decision and Order (hereafter, the “Decision”) in which the Board concluded, based upon an analysis under Atlantic Steel, Co., 245 NLRB 814 (1979), that the Company violated Section 8(a)(1) of the National Labor Relations Act, as amended, by virtue of certain personnel actions taken in connection with the Charging Party’s former employment with the Company. Earlier today, however, the Company filed with the Board a Motion for Reconsideration, whereby the Company has requested that the Board reconsider the Decision under General Motors, Inc., 369 NLRB No. 127 (July 21, 2020),

where, in relevant part, the Board announced the Wright Line analysis will now apply to all pending cases that would otherwise be decided under Atlantic Steel.

Section 102.23 of the Board's Rules and Regulations provides that, regardless of whether a complaint has been amended, an answer "may, in the discretion of the Administrative Law Judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the Administrative Law Judge or the Board." In the case here, because a new legal framework governs the Board's resolution of the General Counsel's allegations, the Company should be afforded the right, both as a matter of equity and due process, to plead defenses in response to the new framework.

Accordingly, the Company respectfully requests leave to file the attached Amended Answer.

Dated: August 21, 2020
Glastonbury, CT

Respectfully submitted,

/s/ _____

Bryan T. Carmody
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CERTIFICATE OF SERVICE

As an attorney duly admitted to the practice of law, I do hereby certify that,
on August 21, 2020, I served a copy of the document above on the following *via* e-mail:

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Dated: August 21, 2020
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Respectfully submitted,

/s/ _____

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EXHIBIT A

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	:	
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	:	
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AMENDED ANSWER

As the Respondent in the above-captioned case, American Medical Response Mid-Atlantic, Inc. (hereafter, the “Company”) hereby incorporates, as though set forth fully herein, the Company’s Answer, filed on February 14, 2019, in response to the Complaint and Notice of Hearing (hereafter, the “Complaint”) issued by Ms. Nancy Wilson, Acting Regional Director, Region 5 of the National Labor Relations Board, on February 4, 2019, and further avers the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

The General Counsel is barred under Section 10(b) of the National Labor Relations Act, as amended (hereafter, the “Act”), from prosecuting the unfair labor practices alleged by the Complaint.

SECOND AFFIRMATIVE DEFENSE

The General Counsel is barred from prosecuting the unfair labor practices alleged by the Complaint by virtue of a Last Chance Agreement entered into between and among the Company, the Charging Party and the labor organization that represented the Charging Party.

THIRD AFFIRMATIVE DEFENSE

Under the presumption, for the sake of argument, that the Charging Party engaged in any activity protected by Section 7 of the Act, the Company would have taken the actions referenced by Paragraphs (5) and (6) of the Complaint even in the absence of such activity.

Dated: August 21, 2020
Glastonbury, CT

Respectfully submitted,

/s/ _____

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